

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

LORI A. EVERSON,

Plaintiff,

v.

**6:08-CV-110
(FJS/RFT)**

**MICHAEL J. ASTRUE, Commissioner
of Social Security,**

Defendant.

APPEARANCES

OF COUNSEL

**LAW OFFICES OF
PETER W. ANTONOWICZ**
1300 Floyd Avenue, Suite 5
Rome, New York 13440
Attorneys for Plaintiff

PETER W. ANTONOWICZ, ESQ.

**SOCIAL SECURITY ADMINISTRATION
OFFICE OF GENERAL COUNSEL,
REGION II**

VERNON NORWOOD, SAUSA

26 Federal Plaza, Room 3904
New York, New York 10278-0004
Attorneys for Defendant

SCULLIN, Senior Judge

ORDER

Plaintiff filed this action on January 30, 2008. *See* Dkt. No. 1. On April 7, 2008, Defendant filed a motion to dismiss on the ground that Plaintiff's complaint was untimely because she did not commence this action "within sixty days after the mailing to [her] of notice of [the final decision of the Commissioner made after a hearing] or within such further time as the Commissioner may allow." 42 U.S.C. § 405(g). *See* Dkt. No. 7. On June 12, 2008,

Plaintiff's counsel filed a letter advising the Court that he would "offer no opposition to the motion to dismiss . . . [because] [s]ubsequent to filing [the] complaint on behalf of . . . [P]laintiff, the Appeals Council declined [counsel's] request for an extension of time to commence federal court action. Hence, . . . [P]laintiff has no recourse to the United States District Court." *See* Dkt. No. 9.

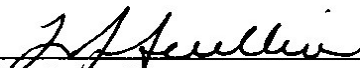
In light of the fact that Plaintiff has acknowledged that her complaint is untimely, the Court hereby

ORDERS that Defendant's motion to dismiss is **GRANTED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendant and close this case.

IT IS SO ORDERED.

Dated: June 17, 2008
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge